

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

August 9, 2001

ORDER

MAINE PUBLIC UTILITIES COMMISSION
NYNEX School and Library Project

Docket No. 1996-900

MAINE PUBLIC UTILITIES COMMISSION
Telecommunication Education Access Fund

Docket No. 2001-223

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order, we direct Verizon Maine (Verizon) to transfer all funds remaining in escrow designated for the Maine School and Library Network to the Commission's fiscal agent for the Maine Telecommunications Education Access Fund (MTEAF). We also approve two recommendations from the MTEAF Advisory Board concerning board membership and the grant program to solicit proposals for "innovative and technologically advanced" projects.

II. REMAINING FUNDS IN ESCROW

As part of Verizon's rate case in 1995, the Commission directed Verizon to spend up to \$20 million to benefit schools and libraries. To accomplish this, the Commission required Verizon to establish an escrow account in which it would accrue \$333,333 per month from June 1, 1995 through May 31, 2000. See Docket Nos. 94-254, 94-123, Order at 20 (Jan. 5, 1996). Using this funding, the Maine School and Library Network (MSLN) operated from January 1996 through June 30, 2001, and connected virtually all of Maine's schools and libraries to the Internet. Beginning July 1, 2001, funding from the Maine Telecommunication Education Access Fund (MTEAF), collected from all intrastate carriers, will be used to support connections to the Internet for schools and libraries. Verizon's role as the sole funding source for these connections ended on June 30, 2001.

As of June 30, 2001, Verizon had spent \$11,523,544 to support the MSLN. It expects additional payments on expenditures incurred prior to June 30, 2001, to be approximately \$626,456.¹ Therefore, approximately \$7,850,000 remains unspent in escrow, plus \$648,222 accrued interest since May 31, 2000, as we directed in our April 10, 2000 Order in Docket Nos. 96-900; 94-254. In our April 2000 Order, we decided that any remaining funds would be used to benefit schools and libraries under the directives in 35-A M.R.S.A. § 7104-B (the MTEAF statute), unless the Legislature

¹ Following discussions with Verizon, it appears that outstanding payments are likely to be closer to \$400,000 than \$626,456 originally projected.

directed the funds to be spent otherwise. The Legislature took no action in its last session related to this funding.

Based on our previous findings, Verizon is directed to transfer the funds remaining in escrow (less \$600,000 for possible additional payments) to our MTEAF fiscal agent, the National Exchange Carrier Association, Inc. (NECA). Verizon shall pay all outstanding bills by December 31, 2001 and make a final accounting to the Commission by January 15, 2002. At that time, any unspent funds, plus interest accrued, shall be transferred to NECA.

III. ADVISORY BOARD MEMBERSHIP

Chapter 285 establishes the MTEAF Advisory Board and its members.² The Rule allows the Commission to designate other members if it finds that there are interests necessary to the project that are not adequately represented. The Board recommends that membership be expanded to include a representative of the University of Maine System Network for Education and Technology Service (UNET). UNET is part of the University of Maine System, formed in 1992. It provides computing, networking and course delivery services for the University of Maine System. In the MSLN project, UNET was Verizon's subcontractor for Internet service. Subsequently, UNET was the winning bidder for providing Internet service under the MTEAF. UNET representatives have always attended MSLN and MTEAF Board meetings. The Board relies heavily on its technical expertise. The Board believes that participation by UNET should be more formally recognized. Like Verizon, it would not participate in any decisions relating to its performance as a contractor.

We recognize that UNET is an important resource to the Board, however it also is a contractor providing services paid for by the MTEAF. We will permit the primary vendors (Verizon and UNET) to sit on the Board as non-voting members. Should they cease to be vendors, their positions on the Board, as vendors, will terminate.

IV. INNOVATIVE AND TECHNOLOGICALLY ADVANCED

The MTEAF statute requires "a minimum of 25% of each annual program budget must be devoted to targeted projects that are innovative and technologically advanced." Based on an estimate of the revenues to be generated for the MTEAF, the Board projects approximately \$800,000 will be available for this purpose. In our March 28 Order approving the Board's initial recommendations concerning MTEAF, we agreed that the financial support for those sites connected via ATM would qualify as "innovative and technologically advanced." This is expected to be around \$300,000, leaving \$500,000 for other projects. The March 28th Order directed the Board to submit a

² Current members are representatives of the following: PUC (2); OPA; TAM; Verizon; State Libraries; Department of Education; Internet Service Providers; Maine Cable Television Operators and Wireless Carriers.

proposal to the Commission by September 1, 2001, on how those funds should be spent.

The Board proposes a grant program be established whereby one to three projects will be funded. Proposals must demonstrate that they will have the statewide impact. The Board has chosen not to precisely define "innovative or technologically advanced" as it is interested in receiving creative proposals without limiting what is "innovative." Following the pre-proposal phase, a subset of proposals will be invited to make more detailed proposals. The proposals will be judged by the Board, which will make a recommendation to the Commission for final approval.

We agree with the approach recommended by the Board. In seeking proposals, the Board should explain that funding may be made available either entirely in year 1 or apportioned between year 1 and 2. There will be no guarantee of funding beyond year 2. Applicants should explain how the project or technology will be continued, following funding under MTEAF. We also agree with the approach of favoring a limited number of larger projects with statewide impact. However, the application should explain such projects will be favored but should not prohibit the submission of smaller proposals.

Dated at Augusta, Maine, this 9th day of August, 2001.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR:

Welch
Nugent
Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.